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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,600	05/11/2001	Jouni Kivela	0365-0501P	5717

2292 7590 12/20/2004

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EXAMINER

CHEUNG, WILLIAM K

ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,600

Applicant(s)

KIVELA ET AL.

Examiner

William K Cheung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) 26-28 is/are withdrawn from consideration.
5) ☒ Claim(s) 14-18 and 25 is/are allowed.
6) ☒ Claim(s) 1, 12, 13, 19 and 22-25 is/are rejected.
7) ☒ Claim(s) 2-12, 20 and 21 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The examiner acknowledges the receipt of Amendment filed November 30, 2004. Claims 1-28 are pending. Claims 26-28 are drawn to non-elected claims. Claims 1-25 are examined with merit.

2. In view of Amendment filed November 30, 2004, the rejection of claims 1-13, 19-24 under 35 U.S.C. 112, second paragraph is withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 12, 13, 19, 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Bernier et al. (US 5,834,571).

*The invention of claims 1, 12, 13, 19, 22-25 relates to a **method** of producing a polymer in a **continuously operated gas phase reactor**, comprising*

- ***polymerizing at least one monomer in a bed containing active catalyst formed by catalyst and polymer particles suspended in a fluid, said bed defining a fluidized bed level in said reactor,***
 - ***continuously withdrawing polymer powder from the reactor;***
 - ***adjusting the discharge rate of the polymer powder so as to maintain a constant bed level during polymerization; and***
- withdrawing particle agglomerates from reactor.***

Bernier et al. (col. 10, line 50-59; col. 19, line 10-13) disclose methods and monomers for producing a polymer in a continuously operated gas phase reactor where the polymer powder is withdrawn continuously from the reactor at such a rate that the fluidized bed is maintained at a constant level. Because Bernier (Figure; col. 20, example 1) clearly indicates using a fluidized bed reactor for polymerizing at least one monomer in a bed containing an active catalyst formed by catalyst and polymer particles suspended in a fluid. Since Bernier et al. (col. 19, line 10-13) disclose methods for producing a polymer in a continuously operated gas phase reactor where the polymer powder is withdrawn continuously from the reactor at such a rate that the fluidized bed is maintained at a constant level, the teachings of Bernier et al. also include the teachings of a process comprising withdrawing particle agglomerates from the reactor. Claims 1, 12, 13, 19, 22-25 are anticipated.

Allowable Subject Matter

5. Claims 2-12, 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowances

6. Claims 14-18, 25 are allowed.

7. The following is an examiner's statement of reasons for allowance:

As of the date of this office action, the examiner has not located or identified any reference that can be used singularly or in combination with another reference including the closest prior art of Bernier et al. (US 5,834,571) to render the present invention anticipated or obvious to one of ordinary skill in the art.

*The invention of claims 14-18, 25 relates to a **method of discharging polymer from a continuously operated gas phase reactor, wherein at least one monomer is polymerized in a bed containing active catalyst form by catalyst and polymer particles suspended in a fluid, said bed defining a fluidized bed level in said reactor, comprising***

- ***continuously withdrawing polymer powder from the reactor;***

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- *feeding the withdrawn polymer powder into a collecting vessel, wherein lumps are separated from finely-divided polymer powder and at least a part of the gas is separated from the solid materials;*
- *recovering the lumps, and*
- *adjusting the discharge rate of the polymer powder so as to maintain a constant bed level during polymerization.*

Bernier et al. (col. 19, line 10-13) disclose methods for producing a polymer in a continuously operated gas phase reactor where the polymer powder is withdrawn continuously from the reactor at such a rate that the fluidized bed is maintained at a constant level. Bernier et al. are silent on feeding the withdrawn polymer powder into a collecting vessel, wherein lumps are separated from finely-divided polymer powder and at least a part of the gas is separated from the solid materials. Therefore, it would not be apparent to one of ordinary skill in art to use the method teachings of Bernier et al. to obtain the invention of claims 14-18, 25. The invention of claims 14-18, 25 is allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William K. Cheung

Primary Examiner

**WILLIAM K. CHEUNG
PRIMARY EXAMINER**

December 14, 2004